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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,948	06/29/2001	Scott C. Harris	Shape	1049
23844	7590	03/21/2005	EXAMINER	
SCOTT C HARRIS P O BOX 927649 SAN DIEGO, CA 92192			COUSO, YON JUNG	
		ART UNIT	PAPER NUMBER	
		2625		
DATE MAILED: 03/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/681,948	HARRIS, SCOTT C.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yon Couso	2625	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 29 June 2001.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

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1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 and 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed to somebody analyzing a picture and labeling the picture part would read on the claim. For instance, a child putting the word "apple" on top of a picture of an apple and the word "car" on top of a picture of a car.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 8-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsugu et al (US Patent No. 6,463,176).

As per claim 1, Matsugu teaches a method comprising: analyzing an image to recognize parts within the image (column 4, lines 31-43); and replacing recognized parts within the image by an indication representing the recognized part (column 6, lines 36-44).

As per claim 2, Matsugu teaches the replacing includes providing individual part information indicative of how the recognized part within the image differs from a unit recognized part (column 5, lines 31-36).

As per claim 3, Matsugu teaches the individual part information includes information about size and orientation of the recognized part relative to the unit recognized part (column 5, lines 10-19).

As per claim 4, Matsugu teaches the recognize part includes geometric shapes (figure 3).

As per claim 5, Matsugu teaches the recognized part includes information about the actual object represented by the part in the image (31 in figure 3).

As per claim 6, Matsugu teaches obtaining information about subparts of the actual object (32 in figure 3).

As per claim 8, obtaining information from the actual object about other objects which may exist in the image (column 2, line 57-column 3, line 28).

As per claim 9, Matsugu teaches an image analyzing device, comprising: an image obtaining device, obtaining a n electronic file indicative of an image (A1 and A7 in figure 1A); a database, storing a plurality of image parts representing likely parts which may exist in the image (A10 in figure 1A); and an image processing device, processing the electronic file to recognize parts within the electronic file that correspond to the image parts in the database (A8 in figure 1A and column 4, lines 34-43), and to provide a modified electronic file, indicative of the image, which replaces the recognized parts with indications representing the recognized parts based on information in the database (column 6, lines 36-44).

As per claim 10, Matsugu teaches producing additional information that represents how a recognized part within the image differs from a part within the database (column 5, lines 31-36).

As per claim 11, Matsugu teaches information about differences in size and orientation of the recognized part (column 5, lines 16-19).

As per claim 12, Matsugu teaches recognizing actual objects in the image, and finds image parts in the database, which correspond to the actual object (column 5, lines 7-65).

As per claim 13, Matsugu teaches that the database also stores information indicative of other objects in the image which may appear near the actual objects, and wherein the image processing device processes the electronic file to look for the other object (column 5, lines 7-65).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsugu et al in view of Ferguson et al (US Patent No. 6,810,404)

The arguments advanced in paragraph 2 above as to the applicability of the reference are incorporated herein.

As per claim 14, Matsugu teaches a method comprising: analyzing an image against a database, to find portions of the image which are present in the database, and to replace the portions of the image which are present in the database with information based on the image in the database (column 4, lines 31-43 and column 6, lines 36-44). Matsugu does not teach details on updating the database when the image portions are not found in the database, but teaches using the closest match between the image data and the database data. Updating the database based on the match results or modification is old and well-known in the art. Ferguson discloses this at column 6, lines 18-30. It would have been obvious to one of ordinary skill in the art to incorporate old and well-known technique of database updating system into Matsugu, which utilizes closest match system. It would only make sense to include updating database when the closest match does not meet the minimum threshold set by the system.

As per claim 15, Matsugu teaches sending the list of image portions to a database developer (column 6, lines 18-30).

As per claim 16, Matsugu teaches analyzing comprising compressing the image using information in the database (column 6, lines 27-31).

As per claim 17, Ferguson teaches obtaining updates to the database to the database from the database developer (column 6, lines 18-30).

As per claim 7, Ferguson teaches text information (figure 2A).

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

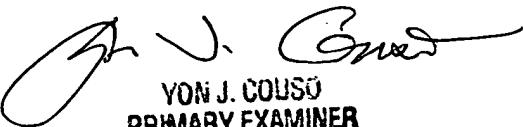
Pears and Murakami et al are also cited.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yon Couso whose telephone number is (703) 305-4779. The examiner can normally be reached on 8:30 am –5:00 pm from Monday to Friday

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached on (703) 308-5246. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.



YON J. COUSO  
PRIMARY EXAMINER

Yjc

March 18, 2005